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LAWS

OF THE

State of New-York,

IN RELATION TO

BANKING ASSOCIATIONS,

AND

INDIVIDUAL BANKERS

DOING BUSINESS UNDER SAID LAWS;

(Passed previous to July 1, 1849.)

TOGETHER WITH

AN EXTRACT FROM THE CONSTITUTION OF THE  
STATE OF NEW-YORK, ADOPTED 1846.

ALBANY:

WEED, PARSONS & CO., PUBLIC PRINTERS,

1849.

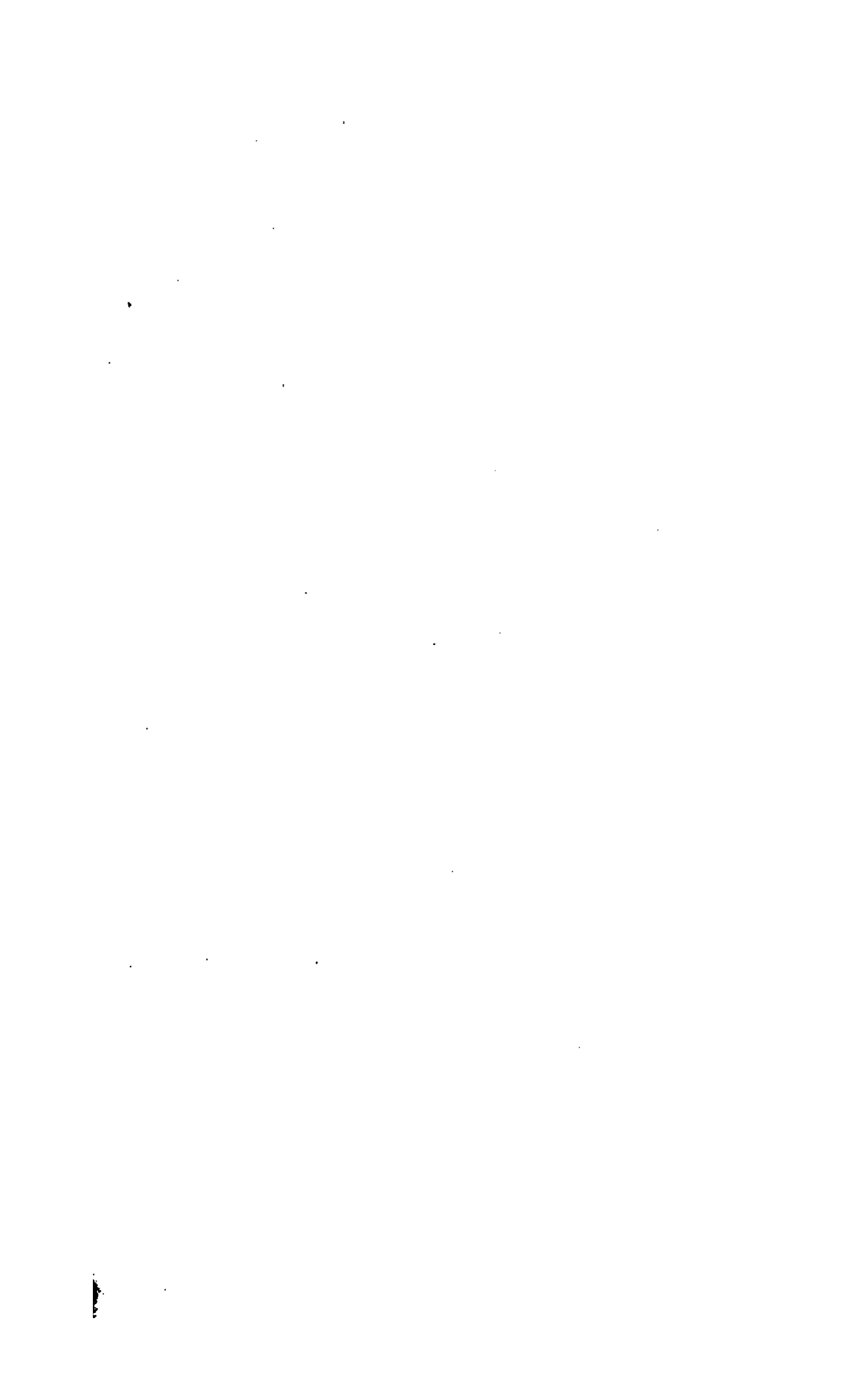


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**LAWS OF THE STATE OF NEW-YORK,**

IN RELATION TO

**BANKING ASSOCIATIONS,**

AND

**Individual Bankers doing Business under said Laws.**

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**Free Banks.**

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**Chapter 260.**

**AN ACT to authorize the Business of Banking.**

[PASSED APRIL 18, 1838.]

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows :*

§ 1. The comptroller is hereby authorized and required to cause to be engraved and printed in the best manner to guard against counterfeiting, such quantity of circulating notes, in the similitude of bank notes in blank, of the different denominations authorized to be issued by the incorporated banks of this state, as he may from time to time deem necessary to carry into effect the provisions of this act, and of such form as he may prescribe. Such blank circulating notes shall be countersigned, numbered and registered in proper books to be provided and kept for that purpose in the office of said comptroller, under his direction, by such person or persons as the said comptroller shall appoint for that purpose, so that each denomination of such

Comptroller to provide circulating notes.

Which are to be countersigned and registered in his office.

circulating notes shall all be of the same similitude and bear the uniform signature of such register, or one of such registers.\*

transfer of  
stock of this state  
circulating notes  
be delivered.

§ 2. Whenever any person or association of persons formed for the purpose of banking, under the provisions of this act, shall legally transfer to the comptroller any portion of the public debt now created or hereafter to be created by the United States or by this State, or such other States of the United States as shall be approved by the comptroller, such person or association of persons shall be entitled to receive from the comptroller an equal amount of such circulating notes, of different denominations, registered and countersigned as aforesaid; but such public debt shall in all cases be, or be made to be, equal to a stock of the state producing five per cent per annum; and it shall not be lawful for the comptroller to take any stock at a rate above its par value.†

when notes may  
circulated as  
money.

§ 3. Such persons or association of persons are hereby authorized, after having executed and signed such circulating notes in the manner required by law to make them obligatory promissory notes payable on demand, at the place of business within this state of such person or association, to loan and circulate the same as money, according to the ordinary course of banking business as regulated by the laws and usages of this state.

notes are not  
deemed in law  
money,  
comptroller to  
deem with  
state funds.

§ 4. In case the maker or makers of any such circulating note countersigned and registered as aforesaid, shall at any time hereafter, on lawful demand, during the usual hours of business between the hours of ten and three o'clock, at the place where such note is payable, fail or refuse to redeem such note in the lawful money of the United States, the holder of such note making such demand may cause the same to be protested for non-payment by a notary public under his seal of office in the usual manner; and the comptroller, on receiving and filing in his office such protest,

\* Original § 1, varied by § 6 of ch. 319, laws of 1841, (post page 21,) by omitting the words "all be of the same similitude and" in the latter part of the section.

† Original § 2, varied by § 1 of ch. 363, laws of 1840, (post page 14,) by omitting what related to stocks created by other States or by the United States.

shall forthwith give notice in writing to the maker or makers of such note to pay the same; and if he or they shall omit to do so for ten days after such notice, the comptroller shall immediately thereupon (unless he shall be satisfied that there is a good and legal defence against the payment of such note or notes) give notice in the state paper, that all the circulating notes issued by such person or association will be redeemed out of the trust funds in his hands for that purpose; and it shall be lawful for the comptroller to apply the said trust funds belonging to the maker or makers of such protested notes, to the payment and redemption of such notes, with costs of protest, and to adopt such measures for the payment of all such circulating notes put in circulation by the maker or makers of such protested notes, pursuant to the provisions of this act, as will in his opinion, most effectually prevent loss to the holders thereof.\*

§ 5. The comptroller may give to any person or association of persons so transferring stock in pursuance of the provisions of this act, powers of attorney to receive interest or dividends thereon, which such person or association may receive and apply to their own use; but such powers may be revoked upon such person or association failing to redeem the circulating notes so issued, or whenever, in the opinion of the comptroller, the principal of such stock shall become an insufficient security; and the said comptroller, upon the application of the owner or owners of such transferred stock in trust, may, in his discretion, change or transfer the same for other stocks of the kinds before specified in this act, or may retransfer the said stocks, or any part thereof, or the mortgages, or any of them hereinafter mentioned and provided for, upon receiving and cancelling an equal amount of such circulating notes delivered by him to such person or association, in such manner that the circulating notes shall always be secured in full either by stocks or by stocks and mortgages, as in this act provided.

Powers of attorney to be given to owners to receive dividends on trust fund.

When to be revoked.

Stocks may be changed or retransferred.

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\* Original § 4, varied by chapter 46, laws of 1841, (post page 40) by omitting the expression which had been construed to give a preference to the holders of the notes first protested.



Bills how to be stamped.

§ 6. The bills or notes so to be countersigned, and the payment of which shall be so secured by the transfer of public stocks, shall be stamped on their face, "Secured by the pledge of public stocks."

Bonds and mortgages to be taken for one half of notes delivered.

§ 7. Instead of transferring public stocks as aforesaid to secure the whole amount of such bills or notes, it shall be lawful for such person or association of persons, in case they shall so elect before receiving any of the said bills or notes, to secure the payment of one half of the whole amount so to be issued, by transferring to the comptroller bonds and mortgages upon real estate, bearing at least six per cent interest, of this state, payable annually or semi-annually; in which case all such bills or notes issued by the said person or association of persons, shall be stamped on their face "Secured by pledge of public stocks and real estate."

How bills to be stamped in such case.

Character of mortgages, title and value of lands, how ascertained.

§ 8. Such mortgages shall be only upon improved, productive, unincumbered lands within this state, worth independently of any buildings thereon, at least double the amount for which they shall be so mortgaged; and the comptroller shall prescribe such regulations for ascertaining the title and the value of such lands as he may deem necessary; and such mortgages shall be payable within such time as the comptroller may direct.

When bonds and mortgages may be re-assigned.

§ 9. The comptroller may, in his discretion, re-assign the said bonds and mortgages, or any of them, to the person or association who transferred the same, on receiving other approved bonds and mortgages of equal amount; and when any sum of the principal of the bonds and mortgages transferred to the comptroller shall be paid to him, he shall notify the person or association that transferred the bonds and mortgages of such payment, and may pay the same to such person or association on receiving other approved bonds and mortgages of equal amount.

Proceedings when principal of trust fund is paid to Comptroller.

Owners of mortgages to receive interest, except in certain cases.

§ 10. The person or association of persons assigning such bonds and mortgages to the comptroller, may receive the annual interest to accrue thereon, unless default shall be made in paying the bills or notes to be countersigned as aforesaid, or unless in the opinion of the comptroller the

bonds and mortgages or stocks so pledged shall become an insufficient security for the payment of such bills or notes.

§ 11. In case such person or association of persons shall fail or refuse to pay such bills or notes on demand in the manner specified in the fourth section of this act, the comptroller, after the ten days' notice therein mentioned, may proceed to sell at public auction the public stocks so pledged or the bonds and mortgages so assigned, or any or either of them, and out of the proceeds of such sale shall pay and cancel the said bills or notes, default in paying which shall have been made as aforesaid ; but nothing in this act contained shall be considered as implying any pledge on the part of the State for the payment of said bills or notes beyond the proper application of the securities pledged to the comptroller for their redemption.

When pledged securities to be sold, and how.

Proceeds to be applied to the payment of bills.

§ 12. The public debt and bonds and mortgages to be deposited with the comptroller by any such person or association, shall be held by him exclusively for the redemption of the bills or notes of such person or association put in circulation as money, until the same are paid.

Pledged securities to be held exclusively for redemption of circulating notes.

§ 13. The plates, dies and materials to be procured by the comptroller, for the printing and making of the circulating notes provided for hereby, shall remain in his custody and under his direction ; and the expenses necessarily incurred in executing the provisions of this act, shall be audited and settled by the comptroller, and paid out of any moneys in the treasury not otherwise appropriated ; and for the purpose of reimbursing the same, the said comptroller is hereby authorised and required to charge against and receive from such person or association applying for such circulating notes, such rate per cent thereon as may be sufficient for that purpose, and as may be just and reasonable.

Plates, &c., to remain in custody of Comptroller.

Expenses in executing this act how paid.

§ 14. It shall not be lawful for the comptroller, or other officer, to countersign bills or notes for any person or association of persons, to an amount in the aggregate exceeding the public debt, or public debt and bonds and mortgages at their value, as provided in the second section of

Comptroller not to countersign bills beyond securities pledged.

Penalties for violation of this provision.

this act, deposited with the comptroller by such person or association; and any comptroller or other officer who shall violate the provisions of this section shall, upon conviction, be adjudged guilty of a misdemeanor, and shall be punished by a fine not less than five thousand dollars, or be imprisoned not less than five years, or by both such fine and imprisonment.

Number of associates and am't of capital stock.

§ 15. Any number of persons may associate to establish offices of discount, deposit and circulation, upon the terms and conditions, and subject to the liabilities prescribed in this act; but the aggregate amount of the capital stock of any such association shall not be less than one hundred thousand dollars.

Association to make a certificate, and its contents.

§ 16. Such persons, under their hands and seals, shall make a certificate which shall specify:

1. The name assumed to distinguish such association, and to be used in its dealings;

2. The place where the operations of discount and deposit of such association are to be carried on, designating the particular city, town or village;

3. The amount of the capital stock of such association, and the number of shares into which the same shall be divided;

4. The names and places of residence of the shareholders, and the number of shares held by each of them respectively;

5. The period at which such association shall commence and terminate; which certificate shall be proved or acknowledged and recorded in the office of the clerk of the county where any office of such association shall be established, and a copy thereof filed in the office of the secretary of state.

How proved, recorded, and filed.

Certificates may be used as evidence.

§ 17. The certificate required by the last preceding section to be recorded and filed in the offices of the clerk of the county and secretary of state as aforesaid, or copies thereof, duly certified by either of those officers, may be used as evidence in all courts and places for and against any such association.

§ 18. Such association shall have power to carry on the business of banking, by discounting bills, notes, and other evidences of debt; by receiving deposits; by buying and selling gold and silver bullion, foreign coins and bills of exchange, in the manner specified in their articles of association for the purposes authorized by this act; by loaning money on real and personal security; and by exercising such incidental powers as shall be necessary to carry on such business; to choose one of their number as president of such association, and to appoint a cashier, and such other officers and agents as their business may require, and to remove such president, cashier, officers and agents at pleasure, and appoint others in their place.

General powers of association.

President and Cashier.

§ 19. The shares of said association shall be deemed personal property, and shall be transferable on the books of the association in such manner as may be agreed on in the articles of association; and every person becoming a shareholder by such transfer, shall, in proportion to his shares, succeed to all the rights and liabilities of prior shareholders; and no change shall be made in the articles of association by which the rights, remedies, or security of its existing creditors shall be weakened or impaired. Such associations shall not be dissolved by the death or insanity of any of the shareholders therein.

Shares to be personal property, and how transferable.

Rights of shareholders.

No change in articles to impair right of creditors. Association not dissolved by the death, &c., of shareholders.

§ 20. It shall be lawful for any association of persons organized under this act, by their articles of association, to provide for an increase of their capital and of the number of the associates, from time to time, as they may think proper.

Articles may provide for increase of capital, &c.

§ 21. Contracts made by any such association, and all notes and bills by them issued and put in circulation as money, shall be signed by the president or vice-president and cashier thereof; and all suits, actions and proceedings brought or prosecuted by or on behalf of such association, may be brought or prosecuted in the name of the president thereof; and no such suit, action or proceeding shall abate by reason of the death, resignation or removal from office of such president, but may be continued and prose-

Contracts, how signed, and suits how prosecuted.

cuted according to such rules as the courts of law and equity may direct, in the name of his successor in office, who shall exercise the powers, enjoy the rights, and discharge the duties of his predecessor.

Actions may be maintained against president of association.

Not to abate by his death or removal.

Judgment enforced against joint property only.

§ 22. All persons having demands against any such association, may maintain actions against the president thereof; which suits or actions shall not abate by reason of the death, resignation or removal from office of such president, but may be continued and prosecuted to judgment against his successor; and all judgments and decrees obtained or rendered against such president for any debt or liability of such association shall be enforced only against the joint property of the association, and which property shall be liable to be taken and sold by execution under any such judgment or decree.

Shareholders not personally liable, unless articles of association make them so.

§ 23. No shareholder of any such association shall be liable in his individual capacity for any contract, debt, or engagement of such association, unless the articles of association by him signed shall have declared that the shareholder shall be so liable.

For what purpose to hold and convey real estate.

§ 24. It shall be lawful for such association to purchase, hold and convey real estate for the following purposes :

1. Such as shall be necessary for its immediate accommodation in the convenient transaction of its business; or,
2. Such as shall be mortgaged to it in good faith, by way of security for loans made by, or moneys due to, such association ; or,
3. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings ; or,
4. Such as it shall purchase at sales under judgments, decrees or mortgages held by such association.

Prohibited holding for any other purpose.

Real estate how conveyed.

The said association shall not purchase, hold or convey real estate in any other case or for any other purpose ; and all conveyances of such real estate shall be made to the president or such other officer as shall be indicated for that purpose in the articles of association ; and which president or officer, and his successors, from time to time, may sell, assign and convey the same, free from any claim thereon,

Sale free from any claim thereon against shareholders.

against any of the shareholders or any person claiming under them.

§ 25. Upon the application of creditors or shareholders of any such association, whose debts or shares shall amount to one thousand dollars, and stating facts verified by affidavit, the chancellor may, in his discretion, order a strict examination to be made by one of the masters of his court, of all the affairs of such association, for the purpose of ascertaining the safety of its investments, and the prudence of its management; and the result of every such examination, together with the opinion of the master and of the Chancellor thereon, shall be published in such manner as the Chancellor shall direct, who shall make such order in respect to the expenses of such examination and publication as he may deem proper.

When chancellor to order examination of affairs of association.

Result may be published.

§ 26. Such association shall, on the first Mondays of January and July in every year after having commenced the business of banking as prescribed by this act, make out and transmit to the comptroller, in the form to be provided by him, a full statement of the affairs of the association, verified by the oaths of the president or cashier, which statement shall contain,

Semi-annual report to be made to comptroller.

Contents of report.

1. The amount of the capital stock paid in according to the provisions of this act or secured to be paid :

2. The value of the real estate of the association ; specifying what portion is occupied by the association as necessary to the transaction of its business :

3. The shares of stock held by such association, whether absolutely or as collateral security ; specifying each kind and description of stock, and the number and value of the shares of each :

4. The amount of debts due to the association ; specifying such as are due from moneyed or other corporations or associations ; and also specifying the amount secured by bond and mortgage or judgment ; and the amount which ought to be included in the computation of losses :

5. The amount of debts due by such association ; specifying such as are payable on demand, and such as are due to moneyed or other corporations or associations :

6. The amount of claims against the association not acknowledged by it as debts :

7. The amount of notes, bills or other evidences of debt issued by such association :

8. The amount of the losses of the association ; specifying whether charged on its capital or profits, since its last preceding statement, and of its dividends declared and made during the same period :

9. The average amount in each month during the preceding six months of the debts due to and from the association ; the average amount of specie possessed by the same during each month, and the amount of bills and notes issued by such association and put in circulation as money, and outstanding against the association, on the first day of each of the preceding six months :

10. The average amount in each month during the preceding six months due to the association, from all the shareholders in the association, also the greatest amount due to the association in each of the said preceding six months, from all the shareholders in such association :

11. The amount which the capital of the said association has been increased during the preceding six months, if there shall have been any increase of the said capital ; and the names of any persons who may have become parties to the said articles of association, or may have withdrawn therefrom since their last report.

Statement to be published.

It shall be the duty of the comptroller to cause the statement required to be made by this section, to be published in a newspaper printed in the county where the place of business of such association is situated, and in the state paper ; the expense of which shall be paid by such association.\*

Penalty for neglecting to report, or for violating any provision of this act.

§ 27. If such association shall neglect to make out and transmit the statement required in the last preceding section, for one month beyond the period when the same is required to be made, or shall violate any of the provisions of this act, such association may be proceeded against and dissolved

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\* The whole of § 26, repealed by § 5 of ch. 319, laws of 1841, (post page 21,) and § 1 of last ch. substituted. (post page 19 )

by the court of chancery, in the same manner as any moneyed corporation may be proceeded against and dissolved.

§ 28. If any portion of the original capital of any such association shall be withdrawn for any purpose whatever, whilst any debts of the association remain unsatisfied, no dividends or profits on the shares of the capital stock of the association shall thereafter be made, until the deficit of capital shall have been made good, either by subscription of the shareholders, or out of the subsequently accruing profits of the association ; and if it shall appear that any such dividends have been made, it shall be the duty of the chancellor to make the necessary orders and decrees for closing the affairs of the association, and distributing its property and effects among its creditors and shareholders.

If capital withdrawn, no dividends to be made.

Penalty for making dividends in such case.

§ 29. Such association shall be liable to pay the holder of every bill or note put in circulation as money, the payment of which shall have been demanded and refused, damages for non-payment thereof, in lieu of interest, at and after the rate of fourteen per cent per annum, from the time of such refusal until the payment of such evidence of debt, and the damages thereon.

Holder of bills entitled to 14 per cent. in case of non-payment on demand.

§ 30. The president and cashier of every association formed pursuant to the provisions of this act, shall at all times keep a true and correct list of the names of all the shareholders of such association, and shall file a copy of such list in the office of the clerk of the county where any office of such association may be located, and also in the office of the comptroller, on the first Mondays of January and July in every year.

List of names of shareholders to be kept, and where filed.

§ 31. It shall not be lawful for any association formed under the provisions of this act, to make any of its bills or notes of a denomination less than one thousand dollars, to be put in circulation as money, payable at any other place than at the office where the business of the association is carried on and conducted.

Bills less than \$1000 not to be made payable at any place except the office of the association.

§ 32. The legislature may at any time alter or repeal this act.

Repealing clause.

§ 33. No association of persons authorized to carry on the business of banking under this act, shall at any time, Association to have in specie 12½ per cent of



notes in circulation.

for the space of twenty days, have on hand at their place of business, less than twelve and a half per cent in specie, on the amount of the bills or notes in circulation as money.\*

### Chapter 363.

## AN ACT to amend the act entitled "An Act to authorize the Business of Banking."

[PASSED MAY 14, 1840.]

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows :*

Stocks of this state only to be received by comptroller.

§ 1. The second section of the act entitled "An act to authorize the business of banking," passed April 18, 1838, is hereby amended, so as to read as follows: Whenever any person or association of persons, formed for the purpose of banking, under the provisions of this act, shall lawfully transfer to the comptroller any portion of the public stock issued or to be issued by this state, such person or association of persons, shall be entitled to receive from the comptroller an equal amount of such circulating notes of different denominations, registered and countersigned as aforesaid; but such public stock shall in all cases be, or be made to be, equal to a stock of this state producing five per cent per annum; and it shall not be lawful for the comptroller to take such stock at a rate above its par value, nor above its current marked value.

Not to affect stocks now held by Comptroller.

§ 2. The provisions of the said second section shall not be construed to prevent the stocks now held by the comptroller under the act hereby amended, from being hereafter transferred to and received by him at their market value in the same manner as though this act had not been passed.

Amount of securities to be deposited.

§ 3. No association of persons shall commence the business of banking under the said act, until such association shall have deposited with the comptroller the securities required by law, to the amount of one hundred thousand dollars.†

\* Original § 33, repealed by § 6 of ch. 363, laws of 1840, (post page 15.)

† Original § 3, altered by § 1 of ch. 281, laws 1844. (post page 23.)

§ 4. No banking association or individual banker, as Notes to be payable on demand, and without interest. such, shall issue or put in circulation any bill or note of said association or individual banker, unless the same shall be made payable on demand and without interest; and every violation of this section by any officer or member of a banking association, or by any individual banker, shall Penalty. be deemed and adjudged a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court having cognizance thereof.

§ 5. It shall be the duty of the comptroller to receive Mutilated notes may be exchanged. mutilated circulating notes issued by him, and to deliver in lieu thereof other circulating notes to the same amount.

\* § 6. The thirty-third section of the act hereby amended Section repealed. is repealed.

§ 7. Whenever the securities deposited for the redemption When interest and dividends may be returned. of circulating notes, shall in the opinion of the comptroller become insufficient for that purpose, he may receive the dividend on all stocks as well as the interest on bonds and mortgages, and shall deposite the same in some safe bank or banking association in the city of Albany, in his name, in trust for the association or banker to whom the same may belong. The deposite to be made on such terms and How executed. at such rate of interest as the comptroller may deem most conducive to the interest of such association or banker, and to be withdrawn and paid over, whenever, in the opinion of the comptroller, the securities of such association or banker shall be sufficient to warrant it.

§ 8. It shall be the duty of the joint committee annually Committee of legislature, to examine bank department. chosen, to examine the treasurer's accounts, to examine such of the securities deposited in the comptroller's office, by banking associations and individual bankers, together with books and papers therein relating to the business of banking, as the said committee may deem necessary to enable them to report the true state and conditions of that department to the legislature.

§ 9. It shall be lawful for the president of any banking Certain bonds, &c., directly to Comptroller. association, or any individual banker, to make or execute bonds and mortgages, direct to the comptroller, to secure

the payment of circulating bills or notes, issued under the act to authorize the business of banking, and all such bonds and mortgages heretofore received by the comptroller for such purpose, shall be valid.

of protest-  
how paid.

§ 10. All fees for protesting the circulating notes issued by any banking association or individual banker, shall be paid by the person procuring the services to be performed, for which such association or banker shall be liable, but no part of the securities deposited by such association or banker shall be applied to the payment of such fees.

ers of bank  
commissioners,  
nited to asso-  
tions, &c.

§ 11. Every banking association and individual banker, carrying on banking business, or who shall hereafter carry on banking business, under the act to authorize the business of banking, shall be subject to the inspection and supervision of the bank commissioners, whose powers and duties shall be the same, in respect to said banking association or individual banker, as they are, or may be, in respect to any of the incorporated banks of this state.

en and how  
relations to be  
needed  
inst.

§ 12. In case any of the said associations or individual bankers shall refuse to submit its books, papers and concerns, to the inspection of said commissioners, or either of them, or whose officers shall refuse to submit to be examined upon oath, touching the concerns of such association or individual banker, by said commissioners, or either of them, or which shall be found to have violated any law of this state, binding upon such association or individual banker, such association or individual banker shall be liable to be proceeded against by said commissioners, in the same manner and with the like effect as any incorporated bank may be proceeded against for a violation of its charter.

ditional bank  
commissioner.

§ 13. There shall be appointed one additional bank commissioner, whose style and term of office, powers, duties, compensation, and manner of appointment, shall be the same as those of the present commissioners. The salary of such commissioner shall be paid quarterly by the treasurer, on the warrant of the comptroller, and the amount thereof retained by the comptroller, and paid into the treasury, out of the interests upon the securities deposited with

the comptroller, by the said banking associations and individual bankers, in proportion to the amount of securities deposited by each.

§ 14. Nothing in the act hereby amended shall be construed to prevent any body corporate, which may have power to hold, receive or transfer shares of public debt, bank stock, or the like personal property, from also holding, receiving or transferring any transferable shares of the stock of associations organized under the said act.

Former act not to prevent certain corporations owning stock of associations.

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## Chapter 56.

### AN ACT respecting Suits and Legal Proceedings by or against Banking Associations.

[PASSED MARCH 16, 1841.]

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows :*

§ 1. Actions instituted against any association established or to be established under the provisions of the "Act to authorize the business of banking," passed April 18, 1838, or of any act amending the same, may be commenced by declaration, and copies of such declaration may be served on the president or cashier of such association, and in their absence on any director, at the usual place of business thereof, or in such other manner as the court in which such action is brought may direct. But all such actions shall nevertheless be commenced only against the persons and in the manner prescribed or permitted by the acts above mentioned.

Actions may be commenced by declaration.

§ 2. Any person who shall be or shall have been an associate or shareholder of any such association, may, in respect of any demand which he may have, either solely or jointly with any other person, against such association, commence and prosecute, either solely or jointly (as the

Actions how to be commenced and prosecuted by associates or shareholders.

case may be,) any action, suit or other proceeding in law and equity against the president of such association; and any president of such association may commence and prosecute any action, suit or other proceeding in law or equity, against any person who may be or who may have been an associate or shareholder of such association, either alone or jointly with any other person, against whom such association may have any demand whatever. All such suits or proceedings by or against such president, shall be conducted and have the same legal effect as if such associate or shareholder had never been a member of such association. Nor shall any action or suit be in any way affected by reason of the plaintiffs or defendants, or any other person who may be in any way interested in such action, being or having been a shareholder or associate of such association. Nor shall it be necessary in any process, pleading or proceeding, in behalf of or against any such association, to name the individuals composing the same.

Interest in stock  
or dividends not  
to be set off  
against such  
demands.

§ 3. No claim or demand which any associate or shareholder may have in respect to his share or interest in the capital or joint stock of any such association, or of any dividends, interest or profit thereon, shall be capable of being set off either at law or in equity against any demand which such association may have against any associate or shareholder thereof. But all other demands may be set off in the same manner as in suits between individuals; and in any suit against the president of any such association, as president thereof, he may set off demands belonging to it, in the same manner and with the same effect as if such association was the nominal party in the cause.

### Chapter 319.

#### AN ACT to amend the act entitled “An Act to authorize the Business of Banking.”

[PASSED MAY 26, 1841.]

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows :*

§ 1. Every banking association and individual banker carrying on banking business, or who shall hereafter carry on banking business, under the act to authorize the business of banking, shall annually make out and transmit to the bank commissioners in the form prescribed by them, a full statement of its affairs, verified by the oaths of its president and cashier, which statements shall be deposited by such banking association or individual banker respectively, in the office of the secretary of state, sealed and directed to said commissioners on or before the twentieth day of January in each year, after the passage of this act, or after the time of their having respectively commenced the business of banking as prescribed by the act hereby amended.

Associations and bankers to make return statement to bank commissioners yearly.

§ 2. Such statement so transmitted shall contain,

1. The amount of the certified stock of the capital stock of the banking association or individual banker, paid in or invested according to law, or in pursuance of its articles of association, and the amount of such stock as then possessed ;

Statement how to be made out.

2. The value of the real estate of the association or individual banker, specifying what portion is occupied by the association or individual banker for the transaction of business ;

3. The shares of stock held by such association or individual banker, whether absolutely or as collateral security, specifying each kind and description of stock and the number and value of the shares of each ;

4. The debts owing to the association or individual banker, specifying such as are due from moneyed or other corporations or associations, the names of such corporations or associations, and the amount due from each, and also specifying the amount secured by bond and mortgage or judgment; the amount which ought to be included in the computation of losses, and the total amount of such debts then collectable;

5. The amount of debts owing by the association or individual banker, specifying such as are payable on demand, and such as are due to moneyed or other corporations, associations or individual bankers, the names of such corporations or associations or individual bankers, and the amount due to each;

6. The amount of claims against the association or individual banker, not acknowledged by it or him as debts;

7. The amount for which the association or individual banker is bound as surety, or for which it may become liable on the happening of contingent events, whether upon policies of insurance or otherwise;

8. The amount of the notes or bills then in circulation, of said association or individual banker, of loans and discounts, and of specie on hand;

9. The amount on the first of July next preceding, of notes or bills in circulation, of loans and discounts, and of specie on hand, of such association or individual banker;

10. The amount of the losses of the association or individual banker (if any) charged, specifying whether charged on its or his capital or profits since the last preceding statement, and of the dividends declared and made during the same period:

11. The amount of real estate mortgages and of state stocks, together with the description of such stocks deposited by each association or individual banker, with the comptroller, as security for the circulating notes issued; the market value of said stocks as near as the same can be ascertained, and the date to which payment of interest has been made upon such real estate mortgages and stocks,

and whether said interests had been paid to such banking association or individual banker, or passed to their or his credit on the books of the comptroller.

§ 3. Every association that shall neglect to make out Penalty for neglect. and transmit the statement required as prescribed in the first section of this act, may be proceeded against and dissolved as an insolvent association, and every individual banker subject to this law, who shall so neglect, shall be restrained from the further prosecution of his business.

§ 4. It shall be the duty of the bank commissioners to Bank commissioners to prepare forms of statements. to prepare forms of the statements, and to transmit a copy thereof, together with such instructions as they may deem necessary, to every association or individual banker which is or shall be bound to furnish such statements under the provisions of this act. The expenses of printing the forms of said statements and instructions shall be paid by the treasurer on the warrant of the comptroller, and the amount thereof retained by the comptroller and paid into the treasury out of the interest of the securities deposited with the comptroller by the said banking associations and individual bankers, in proportion to the amount of securities deposited by each.

§ 5. The twenty-sixth section of the act hereby amended is repealed.

§ 6. The first section of the act hereby amended, shall be amended so as to read as follows :

The comptroller is hereby authorized and required to cause to be engraved and printed in the best manner to Comptroller authorized to print circulating notes like bank notes. guard against counterfeiting, such quantity of circulating notes in the similitude of bank notes, in blank, of the different denominations authorized to be issued by the incorporated banks of this state, as he may from time to time deem necessary to carry into effect the provisions of this act, and of such form as he may prescribe; such blank circulating notes shall be countersigned, numbered and registered in proper books to be provided and kept for that purpose in the office of said comptroller, under his direction, by such person or persons as the said comptroller shall appoint for



that purpose, so that each denomination of such circulating notes shall bear the uniform signature of such register or one of such registers.

Assignments made by Comptroller may be recorded.

§ 7. Every assignment of any bond or mortgage executed by the comptroller under his official seal, in pursuance of the provisions of the said act, or which may be otherwise authorized by law, may be recorded in the same manner and with the like effect as a deed regularly acknowledged or proved before any officer authorized by law to take the proof and acknowledgment of deeds.

Banker or association when to relinquish business.

§ 8. When any individual banker or the officers of any banking association, desirous of relinquishing the banking business, shall have redeemed at least ninety per cent of their circulating notes, and shall produce to the comptroller a certificate of a deposit to his credit in such bank as he shall approve, to an equal amount with the circulating notes of such bank unredeemed, it shall be lawful for him to receive the same and to give up all the securities theretofore deposited by such banker or association, for the redemption of circulating notes issued.

Notice to be given for two years.

§ 9. Such association or individual banker, after having complied with the provisions of the preceding section, may give notice for two years in the state paper, and also in at least one newspaper printed in the county where the said association or bank shall have been located, that all circulating notes issued by such association or bank must be presented at the comptroller's office within two years from the date of such notice, or that the funds deposited for the redemption of the notes will be given up to the bank or association, and on receiving satisfactory proof of the giving such notice for the time aforesaid, the comptroller shall surrender to the order of the said association or bank, any securities which he may hold for the payment of any unredeemed notes of the said association or bank.

Secretary of state to publish act of April 18, 1838, and amendments.

§ 10. It shall be the duty of the secretary of state to publish with the session laws for the year 1841, a chapter containing the act to authorize the business of banking, passed

April 18, 1838, as amended by subsequent enactments, showing in a corrected and condensed form, the provisions of law at present in operation affecting the associations or individuals now doing business under the said acts.

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### Chapter 281.

AN ACT to amend the act passed May 14, 1840,  
entitled "An act to amend the act entitled an  
act to authorize the Business of Banking."

[PASSED MAY 6, 1844.]

*The People of the State of New-York, represented in  
Senate and Assembly, do enact as follows :*

§ 1. The third section of said act is hereby amended so as to read as follows :

No association of persons shall commence the business of banking under said act until such association shall have deposited with the comptroller the securities required by law, to the amount of one hundred thousand dollars ; and no individual banker or bankers shall commence the business of banking under said act, or receive circulating notes under the same, until such individual banker or bankers shall have deposited with the comptroller the securities required by law, to the amount of fifty thousand dollars.

Associations and individual bankers to deposit securities with the Comptroller.

§ 2. Each and every individual banker now doing business under the general banking law of this state, or who shall, before this law takes effect, have received circulating notes under said act, shall state in his quarterly reports,\* whether any person or persons, and who are interested with such individual banker, directly or indirectly, in the securities deposited with the comptroller for the circulating notes obtained by such individual banker, or in the business of circulating said notes, or the benefits or advantages

Individual bankers to report if any others are interested with them.

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\* How reports are to be made and what to contain generally, see chap. 419, Laws of 1847—(post page 41.)

thereof; and if it shall appear from such report that any other person is so interested with said banker, and in case two successive reports of said banker shall not contain such statement, or if he omit twice in succession to make such quarterly reports, such banker shall forfeit one thousand dollars for each and every omission to make such statement, or to file such reports as aforesaid, to be sued for and recovered by the attorney-general, in the name of and for the benefit of the people of this state.

Penalty for neglecting to do so.

§ 3. Every individual banker who shall heretofore have obtained circulating notes of the comptroller, under said act, shall, within ninety days after this act takes effect, file in the comptroller's office a certificate, stating the town, city or village in which he resides; and thereafter it shall not be lawful for such individual banker to transact business under said act in any other place than in which he resides, and in case of any change of residence of such individual banker, he shall forthwith file a notice thereof in the comptroller's office as aforesaid. Any person neglecting to comply with the requirements of this section, or either of them, shall for each neglect forfeit one thousand dollars, to be sued for and recovered by the attorney-general in the name and for the benefit of the people of this state.

Individual bankers to file certificate of residence in comptroller's office.

Penalty for neglect.

§ 4. This act shall take effect immediately.

### Chapter 160.

#### AN ACT concerning the election of Directors of Banking Associations.

[PASSED APRIL 29, 1847.]

*The People of the State of New-York, represented in  
Senate and Assembly, do enact as follows :*

§ 1. Every banking association which has been or shall Subject to R. S. hereafter be formed or organized under the provisions of the act entitled "An act to authorize the business of banking," passed April 18, 1838, or of any act amending the same, shall be subject to the provisions of article two, title two, chapter eighteen, part one, of the Revised Statutes.

§ 2. This act shall take effect immediately.

### Chapter 340.

An act amendatory of the act entitled "An act authorizing the Business of Banking," passed April 18, 1838, and the acts amending the same.

[PASSED APRIL 12, 1848.]

*The People of the State of New-York, represented in  
Senate and Assembly, do enact as follows :*

§ 1. All banking associations or individual bankers organized under the provisions of the act passed April 18th, 1838, entitled "An act authorizing the business of banking," and the several acts subsequently passed amendatory thereof, or which shall hereafter be organized, shall be banks of discount and deposite, as well as of circulation ; and the usual business of banking of said associations, or individual banker, shall be transacted at the place where such banking

Banking associations and individual bankers, to be banks of discount and deposit.

association or individual banker shall be located, agreeable to the location specified in the certificate directed to be made by the second clause of the sixteenth section of the act passed April 18th, 1838, hereinbefore mentioned, and not elsewhere; and every report directed to be made, by any law of this state, from such association or individual banker, shall be verified by the oath of the president and cashier of such association, or such individual banker, that the business of said association or banker has been transacted at such location. But nothing in this section shall be deemed to repeal or modify the provisions of the act passed 4th May, 1840, entitled "An act for the redemption of bank notes," as the same is applicable to all the banks, banking associations, or individual bankers of the state.

Securities to be deposited with comptroller.

§ 2. The securities which banking associations or individual bankers hereafter to be organized under the provisions of the above recited act, passed April 18th, 1838, and the amendments thereto, shall deposit with the comptroller as security for the redemption of circulating notes issued to them by the said comptroller, shall be New-York State Stocks, in all cases to be or to be made to be equal to a stock producing six per cent per annum, and it shall not be lawful for the comptroller to take such stocks at a rate above its par value or above its current market value; or the securities shall not be less than one-half in such stock and one-half in bonds and mortgages upon improved, productive, unincumbered lands in this state, exclusive of any buildings thereon, said mortgages bearing an interest of not less than seven per cent per annum, and to an amount not exceeding two-fifths the value of said lands.

Amount in mortgages.

§ 3. No mortgage hereafter to be deposited as security as aforesaid, shall be for a greater amount than five thousand dollars each.

When, &c., to apply.

§ 4. The provisions of the first section of this act shall apply to the banking associations and individual bankers now organized as aforesaid, on and after the first day of June, eighteen hundred and forty-eight.

## Safety Fund Banks.

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### Chapter 344.

#### AN ACT to regulate the Issues of the Safety Fund Banks, and for other purposes.

[PASSED APRIL 12, 1848.,]

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows :*

SECTION 1. The several safety fund banks in this State Circulation. incorporated by special act, having capital up to and including two hundred thousand dollars, shall continue to issue and have in circulation notes or bills duly registered as required by law, to the amount now allowed by the act of the 16th of May, 1837, regulating the issues of safety fund banks; and those banks having capitals over two hundred thousand dollars, shall be allowed to issue and have in circulation notes or bills to the amount of their respective capitals, and no other or greater amount. But in all cases where a bank has a branch located at another place, that portion of the whole capital actually employed at each place of business, shall be taken and deemed the capital thereof under the provisions of this section.

§ 2. It shall be the duty of the comptroller at all times Comptroller to furnish notes to each bank. to cause to be printed from the plates in his custody, and deliver to each of said banks, such notes and of such denominations allowed by law, as the bank owning such plates may require, not exceeding, together with outstanding old circulation and with the notes previously received, the amount of circulation allowed to such banks by the first section of this act; and said notes before being delivered to said banks, shall be countersigned and registered To be countersigned before delivery. in the manner specified in the second section of the "act

to abolish the office of bank commissioner, and for other purposes," passed April 18, 1843; and the expenses of preparing, countersigning and registering said notes, shall be paid to the comptroller by the banks receiving the same, in proportion to the number of notes received.

Repeal of acts.

§ 3. All acts and parts of acts heretofore passed, so far as the same are inconsistent with the provisions of this act, are hereby repealed.

Provision relative to safety fund.

§ 4. It shall be the duty of the comptroller to require in addition to the contributions now made to the safety fund of all banks asking for and receiving any bills or notes under and by the provisions of this act, beyond what they are authorized to issue by the act of eighteen hundred and thirty-seven, ample security for the redemption of the same in specie, in accordance with article eight, section six of the constitution of this state.

§ 5. This act shall take effect immediately on its passage.

## Free Banks and Safety Fund Banks.

### Chapter 355.

#### AN ACT concerning Foreign Bank Notes.

[PASSED MAY 7, 1839.]

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows :*

§ 1. From and after the passage of this act it shall be unlawful for any incorporated banking institution within this state, and for any association, or any individual or individuals authorized to carry on the business of banking by virtue of the act entitled "An act to authorize the business of banking," passed the 18th day of April, 1838, to receive, pay out, give or offer in payment, as money, to circulate or attempt to circulate as money, any bill, note or other evidence of debt, issued, or purporting to have been issued, by any corporation, association or individual, situated or residing without this state, and which bill, note or other evidence of debt, shall, upon any part thereof, purport to be payable or redeemable at any place, or by any person, association or corporation within this state.

Restriction as to foreign bank notes.

§ 2. It shall not be lawful for any incorporated banking institution within this state, or any association, or any individual or individuals authorized to carry on the business of banking by virtue of the said act entitled "An act to authorize the business of banking," directly or indirectly to procure or receive from any corporation, association or individual, situated or residing without this state, any bank bill or note or other evidence of debt, in the similitude of a bank bill or note issued, or purporting to have been issued, by such last mentioned corporation, association or individual, with the intent to issue and pay out, or in any way to utter or circulate the same as money, or to issue, pay out, or to utter or circu-

Restriction.



late the same when procured or received as aforesaid as money. But nothing in this section contained shall prohibit the said banking institutions, associations and individual bankers in the first part of this section mentioned, from receiving from their dealers and customers such foreign notes as are allowed by law to be circulated within this state in the regular and usual course of business, or from paying out the same when so received as last aforesaid.

**Notes under par.**

§ 3. It shall not be lawful for any incorporated banking institution within this state, or any association, or any individual or individuals authorized to carry on the business of banking by virtue of the said act entitled "An act to authorize the business of banking," directly or indirectly to lend or pay out for paper discounted or purchased by them, any bank bill, or note or other evidence of debt, which is not received at par by the said banking institution, association or individual, for debts due to the said banking institution, association or individual.

**Penalty.**

§ 4. Every corporation, and every association and individual authorized to carry on the business of banking, who shall offend against any of the provisions of the previous sections of this act, shall forfeit for each and every offence the sum of one thousand dollars, to be recovered with costs of suit in the name and for the use of any person who shall sue for the same and prosecute such suit to judgment in any court having cognizance thereof; and every officer and clerk of such corporations and associations, and every such individual banker and his clerks and servants who shall knowingly act or assist in any violation of any provision of this act, shall, upon conviction, be deemed guilty of a misdemeanor, and shall be punished by fine or imprisonment, or both, in the discretion of the court before which such conviction shall be had; but such fine shall not exceed five hundred dollars, and that such imprisonment shall not exceed six months.

§ 5. This act shall take effect immediately on its passage.

## Chapter 202.

### AN ACT relating to the redemption of Bank Notes.

[PASSED MAY 4, 1840.]

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows :*

§ 1. Every moneyed incorporation in this state having banking powers, and issuing bills or notes of circulation, and every banking association and individual banker, carrying on banking business under the act to authorize the business of banking, except those whose place of business is in the cities of New-York, Albany or Brooklyn, shall, on or before the first day of July next, appoint an agent, who shall keep an office in the city of New-York or Albany, for the redemption of all circulating notes issued by such corporation, banking association or individual banker, which shall be presented to such agent for payment or redemption.

Agents to be appointed in New-York or Albany.

§ 2. Such agent shall be appointed in writing, and such appointment in writing shall be delivered to the comptroller on or before the day above mentioned, and filed in his office; and any corporation having banking powers, banking association, banker or other person, may be an agent for the purposes of this act; and if any such incorporation, association or banker, shall omit to appoint such agent within the time above mentioned, the comptroller shall appoint such agent for such corporation, association or banker.

Their commissions to be filed in comptroller's office.

§ 3. The comptroller, immediately after the said first day of July, shall publish during such time as he may deem proper, a list of such agents in the state paper, and in at least two daily newspapers in the city of New-York, the expense whereof shall be paid by the corporation, associations and bankers above mentioned.

List of agents to be published.

Notes to be re-  
deemed.

§ 4. It shall be the duty of every such corporation, banking association and individual banker, out of the cities of New-York, Albany and Brooklyn, to redeem and pay on demand all circulating notes issued by such corporation, banking association, or individual banker, presented for redemption or payment at the office of their said agent in the city of New-York or of Albany, at a rate of discount not exceeding one-half of one per cent.

Penalties for  
neglect.

§ 5. Every such corporation, banking association or individual banker, whose agent shall neglect or refuse to redeem their notes on demand as aforesaid, shall pay to the person making such demand interest upon the notes so demanded, at the rate of twenty per cent per annum; and if such redemption and payment of interest is not made at said office within twenty days from the time when first demanded, such corporation, banking association or individual banker shall be liable to be proceeded against by the bank commissioners, in the same manner and with the like effect as any incorporated bank may be proceeded against for a violation of its charter; and such corporation, banking association, or individual banker, shall not thereafter issue or put in circulation any of their bills or notes; and the comptroller shall, in that case, proceed in the same manner as is directed in the fourth section of the act entitled "An act to authorize the business of banking," passed April 18, 1838.

Agents to be ap-  
pointed by new  
associations.

§ 6. Every association and individual banker who shall hereafter commence business under the act to authorize the business of banking, shall, upon first receiving any circulating notes from the comptroller, appoint an agent for the purposes of this act, and be subject in all respects to the provisions of this act; and the comptroller is hereby directed not to deliver any circulating notes to such association or banker, until such appointment is made and filed in his office; and such appointment shall be immediately published by the comptroller in manner aforesaid.

Appointments  
may be revoked.

§ 7. Appointments of agents made in pursuance of this act, may be revoked, and new appointments of agents may

be made, from time to time, by delivering such revocation and appointment to the comptroller, who shall cause the same to be published as aforesaid.

§ 8. It shall be lawful for any number of incorporated banks, banking associations and private bankers, by agreement, to associate together for raising a joint fund to be placed in the hands of their common agent, for the redemption of their circulating notes in the city of New-York or Albany, and also the circulating notes of other incorporated banks, banking associations and individual bankers, in such manner and under such regulations as may be agreed upon, and to employ such agents and clerks as they may deem necessary to carry on the business of such common agency; but nothing in this section contained shall authorize the redemption or purchase by such agency of any circulating notes at a discount of more than one half of one per cent, nor to relieve or discharge such incorporated bank, banking association, or individual banker, from any duty or liability required or imposed by this act.

A number of banks may appoint a common agent.

§ 9. Nothing in this act contained shall be so construed as to authorize any incorporated bank, banking association or individual banker, to purchase, buy in, or take up, directly or indirectly, their circulating notes at an amount less than what purports to be due thereon at any other place, or in any other manner than is directed in and by this act.

Saving clause.

## Chapter 130.

### AN ACT respecting the appointment of Receivers of Moneyed Institutions.

[PASSED APRIL 27, 1841.]

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows :*

Receivers to be appointed by bank commissioners.

§ 1. Whenever in proceedings in the court of chancery against any moneyed corporation or any banking association or individual banker, formed or transacting business under the "Act to authorize the business of banking," passed April 18, 1838, it shall become necessary or expedient to direct the appointment of a receiver of the effects of any such corporation, association or banker, or in the case of the death or resignation of any such receiver, an order shall be entered by such court referring it to the bank commissioners to name a proper person to be appointed such receiver, and to take from said receiver such security and in such penalty as they shall deem proper for the faithful discharge of his duties; the sufficiency of such security shall be determined by them in the manner now provided by the rules of the court of chancery for ascertaining the sufficiency of sureties, and for accounting whenever required; and on the filing of a certificate by the bank commissioners naming any person to be appointed such receiver, together with the bond given by him, an order shall be entered by the said court appointing the person named in such certificate, receiver of the effects of such corporation, association or banker, with the usual powers of receiver in such cases.

To be subject to direction and control of commissioners.

§ 2. Such receiver shall be subject to the direction and control of the bank commissioners in respect to the collection and management of the effects of such corporation, association or banker, and with their assent may compromise and compound any claims or demands of such corporation,

association or banker, and may extend the time for the payment of any such claims or demands, and may sell any effects in his hands at public auction or at private sale, and on such times of credit as may be deemed most for the interest of all parties concerned.

§ 3. Whenever the bank commissioners shall be dissatisfied with the proceedings of any receiver of the effects of any such incorporation, association or banker, hereafter appointed, they may by writing under their hands certify to the court of chancery that such person should be removed from his appointment of receiver ; and on filing such certificate in the court by which such receiver was appointed, such court shall enter an order removing him ; and thereupon a further order shall be entered referring it to the bank commissioners to appoint a receiver in the place of the person so removed, and the same proceedings shall be had thereon as provided in the first section of this act in the case of an original appointment, and the receiver so appointed shall possess the like powers and be subject to the same directions as provided by this act in case of an original appointment.

§ 4. The receivers to be appointed under and in virtue of this act shall be entitled to the same commissions and compensation for their services as are now allowed by law to executors and administrators, and no greater or other commissions or compensation than is hereby allowed shall be received or retained by them.

§ 5. This act shall take effect immediately.

## Chapter 218.

AN ACT to abolish the office of Bank Commissioner, and for other purposes.

[PASSED APRIL 18, 1843.]

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows :*

Banks to return statement of circulating notes to comptroller and deposit their plates.

Time allowed to countersign and register notes.

§ 1. Every chartered bank shall take an account of its notes for circulation on the first day of July, eighteen hundred and forty-three, and shall return to the comptroller, under the oath of the president and cashier, a statement of all the notes of the bank which it has in possession, or in any way outstanding or in circulation on that day, specifying the amount of bills of each denomination and the aggregate amount of the whole circulation, and shall, at the same time, deposit with the comptroller their plates, and no bank shall after the time in that day to which the return of the president and cashier is made up, issue any of its own notes which have not been countersigned and registered by the comptroller ; but if the comptroller shall be unable to supply any bank with countersigned and registered notes as fast as such bank may require, on and after the first of July, eighteen hundred and forty-three, such bank may be permitted by the comptroller to re-issue so much of its old circulation within the limits prescribed by law, as may be necessary, not exceeding the amount returned to be outstanding on that day, nor shall any such issue take place until an application has first been made to the comptroller for countersigned and registered notes, and refused ; and provided, also, that the stockholders of any chartered bank shall be individually liable for all the notes of its old circulation which shall be outstanding on and after the first of July, eighteen hundred and forty-four ; and after the first day of July, eighteen hundred and forty-four, no bank shall pay out any note of any bank which has not been counter-

signed and registered at the comptroller's office, as herein provided. And all the notes of any bank issued prior to the first July, eighteen hundred and forty-three, not countersigned and registered, or delivered to the comptroller to be countersigned and registered, shall on or before the first of July, eighteen hundred and forty-four, be redeemed and destroyed in the presence of the comptroller, or of some person to be appointed by him for that purpose. And a certificate of the counting and destruction of the notes certified to be destroyed shall be signed and sworn to by the comptroller or his agent, and an agent appointed by the bank, and deposited in the comptroller's office.

Certain notes to be redeemed and destroyed.

§ 2. It shall be the duty of the comptroller to receive and safely keep the plates, to be delivered to him by the banks, as prescribed in section first; and at all times to cause to be printed from said plates, and to deliver to each bank, such notes, and of such denomination as is now allowed by law, as the bank owning such plates may require, not exceeding, together with outstanding old circulation, and with the notes previously received, the amount of circulation now allowed to such banks by law, and it shall also be the duty of the comptroller to employ suitable persons, whose duty it shall be to countersign such bills in such uniform manner as the comptroller may prescribe, and every note so countersigned, shall, before it is delivered to the bank, be registered in a book to be kept by the comptroller for that purpose; and the expenses of preparing, countersigning and registering such notes, shall be paid to the comptroller by the banks receiving the same, in proportion to the number of notes received. And it shall be competent for the comptroller, when the plates of any bank are worn or otherwise unfit for use, to require such bank to furnish new plates, or to procure them himself, at the expense of such bank.

Comptroller to keep plates and print and deliver notes to banks, registered and countersigned.

§ 3. Every bank and banking association, shall make a quarterly report to the comptroller, commencing on the first Monday of August next, to be continued on the first days of November, February, May and August thereafter, in

Every banking association to make a quarterly report to comptroller.



each and every year; which said report shall be made on the oath of the president and Cashier, and shall contain a true statement of the following items, on the morning of the said first Mondays of August, before any business of that day. Loans and discounts, over drafts, due from banks, due from directors of said bank, due from brokers, real estate, specie, cash items, stocks and promissory notes, bills of solvent banks, bills of suspended banks, loss and expense account, capital, circulation, (distinguishing that received from the comptroller, from the old outstanding bills) profits, amount due to banks, amount due to individuals, amount due to treasurer of state, amount due to commissioners of canal fund, amount due to depositors on demand, amount due not included under either of the above heads. And it shall be the duty of the comptroller to publish said reports together in the state paper, accompanied with a summary of the items of capital, circulation and deposits, specie and cash items, public securities, and private securities, and the separate report of each bank shall be published in a newspaper published in the county in which such bank is situated, at the expense of said bank.\*

Report and summary to be published.

\* § 4. The comptroller shall publish the reports and summary required by the third section, together, in one paper, on or before the twentieth day of August, November, February and May in each year, and the expense of such publication shall be defrayed by a per centage assessed upon the capital stock of all the banks and banking associations of the state; and if any bank shall fail to furnish to the comptroller its quarterly report in time for such publication, it shall forfeit and pay to the comptroller the sum of one hundred dollars, to be applied by him to the payment of the expense of publishing the quarterly reports; and if any bank or banking association shall neglect or refuse to make the quarterly report required by the third section for two successive quarters, it shall forfeit its charter (if an incorporated bank,) and its privileges as a banking

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Sections 3 and 4 were subsequently amended, by Chapter 419, passed December 4, 1847—for which, see post pages 41, 42.

company, if organized under the law of April, 1838, and may be proceeded against, and its affairs closed in any manner now provided by law, in case of an insolvent bank or banking association.

§ 5. Whenever it shall appear from the reports made by any bank, or in any other way, that the capital of any bank has become impaired and reduced, it shall be competent for the comptroller to call upon such bank to redeem its circulation while its capital continues so reduced, so that the circulation of such bank shall not exceed that to which its reduced capital would by law entitle it.

Provision in case of capital being impaired.

§ 6. The office of bank commissioner is hereby abolished ; provided, however, that it shall be competent for the comptroller, whenever he shall have good and sufficient reason to suspect the condition of any bank, or the correctness of its quarterly report, to appoint a special agent to examine the affairs of such bank, and who for that purpose shall have the same powers now vested by law in a bank commissioner. And the expenses of such investigation, if such bank shall be proved to have made a false return or otherwise to have been guilty of a violation of law, shall be paid by said bank ; but if it appear that such bank has violated no law, then the expenses of such examination shall be defrayed in the same manner as is herein provided for defraying the expenses of the publication of the quarterly reports.

Office of bank commissioner abolished.

§ 7. Any bank may at its pleasure, on paying its dues to the safety fund, and on depositing with the comptroller an amount of money equal to the whole amount which any such bank would be liable to pay to the safety fund during the time of its original charter, and all other debts and demands against it, wind up its affairs, distribute its assets among its stockholders, and resign its charter, and close its business, by a resolution passed at a meeting of the stockholders, and approved of by a majority of stockholders in interest of such bank called for that purpose, a copy of which resolution shall be furnished to the comptroller, and shall also be published for three successive weeks in the

Provision relative to safety fund dues.

state paper ; and if any outstanding notes or other demands are not presented within one year, such bank may deposit with the comptroller, or elsewhere under his direction, and subject to his order, on interest, a sum sufficient to meet such outstanding demands, which, when presented to the comptroller, shall be paid by him out of such sum ; and such bank may distribute among its stockholders the surplus of its assets, and after six years from the day on which publication of dissolution was first made, the comptroller shall return to the stockholders, to be distributed, the remainder of any of the sum so deposited.

Repeal.

§ 8. All acts heretofore passed that conflict with the provisions of this act, are hereby repealed.

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## Chapter 46.

AN ACT to amend the act entitled “An act to authorize the business of banking,” passed April 18, 1838.

[PASSED MARCH 15, 1841.]

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows :*

Fourth section of  
of the general  
banking act  
amended.

§ 1. The fourth section of the act entitled “An act to authorize the business of banking,” passed April 18, 1838, shall be modified so as to read as follows: in case the maker or makers of any such circulating note or notes countersigned and registered as aforesaid, shall at any time hereafter, on lawful demand, during the usual hours of business between the hours of ten and three o'clock, at the place where such note or notes is or are payable, fail or refuse to redeem such note in the lawful money of the United States, the holder of such note or notes making

such demand may cause the same to be protested for non-payment by a notary public under his seal of office in the usual manner; and the comptroller, on receiving and filing in his office such protest, shall forthwith give notice in writing to the maker or makers of such note or notes to pay the same; and if he or they shall omit to do so for ten days after such notice, the comptroller shall immediately thereupon (unless he shall be satisfied that there is a good and legal defence against the payment of such note or notes) give notice in the state paper, that all the circulating notes issued by such person or association, will be redeemed out of the trust funds in his hands for that purpose; and the comptroller shall be required to apply the said trust funds belonging to the maker or makers of such protested notes to the payment pro rata of all such circulating notes, whether protested or not, put in circulation by the maker or makers of such protested notes, pursuant to the provisions of this act, and to adopt such measures for the payment of such notes, as will in his opinion most effectually prevent loss to the holders thereof.

§ 2. This act shall take effect immediately.

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### Chapter 419.

**AN ACT to amend an act entitled “An Act to abolish the office of Bank Commissioner, and for other purposes,” passed April 18, 1843.**

[PASSED DEC. 4, 1847, “three-fifths being present.”]

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows:*

§ 1. The third section of the act, entitled “An act to abolish the office of bank commissioner and for other purposes,” passed April 18, 1843, is hereby amended so as to read as follows:

Duty of comptroller, secretary of state and treasurer in relation to quarterly reports.

It shall be the duty of the comptroller, secretary of state and treasurer, on or before the first Tuesdays of January, April, July and October in each year, to fix upon and determine some Saturday in the quarter of a year then ended, in respect to which every incorporated bank, banking association and individual banker in the state shall make a report of the character hereinafter specified. Immediately after each determination of such Saturday, the officers hereinbefore named shall cause notice thereof to be published daily for six successive days in such newspaper published in the city of Albany as shall, for the time being, have the publication of legal notices under the act entitled "An act to provide for the public printing," passed March 5, 1846, or shall serve a copy of such notice upon each incorporated bank, banking association and individual banker in the state, by delivering the same to some officer or clerk thereof at their respective places of business, or by depositing the same in the post office, directed to each of such banks, banking associations and individual bankers, or some officer thereof at their places of business respectively.

Reports, by whom and when to be made to comptroller.

It shall be the duty of every incorporated bank, banking association or individual banker in the state, on or before the first days of February, May, August and November of each year, to make and transmit to the comptroller a quarterly report, which report shall be made on the oath of the president and cashier, and shall contain a true statement of the condition of the bank, banking association or individual banker making such report, before the transaction of any business on the morning of the day specified in the notice of the comptroller, secretary of state and treasurer next preceding the date of such report, in respect to the following items and particulars, to wit:

Items to be reported.

Loans and discounts, over drafts due from banks, due from the directors of the bank, or banking association making the report, due from brokers, real estate, specie, cash items, stocks and promissory notes, bills of solvent banks, bills of suspended banks, loss and expense account, capital, circulation, (distinguishing that received from the comp-

troller from the old outstanding bills,) profits, amount due to banks, amount due to individuals and corporations other than banks, amount due to the treasurer of the state, amount due to commissioners of canal fund, amount due to depositors on demand, amount due not included under either of the above heads. And it shall be the duty of the comptroller to publish such reports together in the newspaper published in the city of Albany in this section before named, accompanied with a summary of the items of capital, circulation and deposits, specie and cash items, public securities and private securities; and the separate report of each bank, banking association and individual banker shall be published in a newspaper published in the county; if a newspaper is published in the city or town in which any bank is situated, such publication shall be had in such paper in which such bank or banking association, or the banking house of such individual banker, shall be situated, at the expense of such bank, banking association or individual banker.

§ 2. Section four of the act in the first section of this act referred to, is hereby amended so as to read as follows, to wit:

The comptroller shall publish the reports and summary Reports and summary when to be published. required by the third section of this act, together in one paper, on or before the twenty-fifth day of August, November, February and May in each year, and the expense of such publication shall be defrayed by a per centage assessed upon the capital stock of all the banks and banking associations, and individual bankers doing business under the "act to authorize the business of banking," passed April 18, 1838, or of any act amending the same, in the state; and if any such bank, banking association or individual banker, shall fail to furnish to the comptroller its quarterly report in time for such publication, it shall forfeit and pay to the comptroller the sum of one hundred dollars, to be applied by him to the payment of the expense of publishing the quarterly reports; and if any bank, banking association or individual banker shall neglect or refuse to make the

quarterly report required by the third section of this act, for two successive quarters, it shall forfeit its charter (if in an incorporated bank) and its privileges as a banking association or individual banker, if organized or doing business under the act of April eighteen, eighteen hundred and thirty-eight, in this section before referred to, and every such bank, banking association and individual banker may be proceeded against and its affairs closed in any manner now required by law in case of an insolvent bank or banking association.

Provision in  
cases of incorrect  
quarterly re-  
turns.

§ 3. Whenever in the opinion of the comptroller, there shall be good cause to suspect that any bank, banking association or individual banker has made an incorrect or imperfect quarterly return, or is in an unsound or unsafe condition to do banking business, it shall be his duty to have the books, papers and affairs of such bank, banking association or individual banker, examined by some competent person to be designated by him, who shall examine fully into its books, papers and affairs forthwith, and report to the comptroller on oath, the result of such examination, a copy of which report shall be forthwith published in the manner prescribed in the first and second sections of this act in respect to the publication of quarterly returns. The reasonable costs and expenses of every such examination shall be defrayed in the manner prescribed in the second section of this act for paying the expenses of publishing quarterly returns.

Bankers and as-  
sociations sub-  
ject to taxation.

§ 4. All individual bankers and all banking associations, which are now or shall be hereafter engaged in the business of banking under the provisions of the act entitled "An act to authorize the business of banking," shall be subject to taxation on the full amount of actual capital paid in or secured to be paid in, as such capital by them severally, at the actual market value of such securities to be estimated by the comptroller without any reduction for the debts of such individual banker or banking association. But in no case shall the capital of any such banking association or individual banker, be estimated at a less sum than the

amount of circulating notes delivered to such banking association or individual banker and not returned to the comptroller, and in case the capital of such banking association has been reduced by the surrender of any securities to the stockholders thereof, and the certificates of stock held on account of such securities being surrendered to such banking association and cancelled, such banking association shall not be subject to taxation upon such part of its capital.

§ 5. Nothing in this act contained shall apply to any <sup>Saving clause.</sup> bank or banking association which has reduced its capital stock in violation of the twenty-eighth section of an act entitled "an act to authorize the business of banking," passed April 18th, 1838.\*

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## Chapter 452.

**AN ACT to repeal section five of the act entitled  
"An act to amend an act to abolish the office  
of Bank Commissioner and for other purposes,"  
passed December 4th, 1847.**

[PASSED DECEMBER 13, 1847.]

*The People of the State of New-York, represented in  
Senate and Assembly, do enact as follows :*

§ 1. Section five of the act entitled an act to amend an <sup>Repeal.</sup> act entitled an act to abolish the office of bank commissioner, passed December 4th, 1847, which section reads as follows, to wit: "Nothing in this act contained shall apply to any bank or banking association, which has reduced its capital stock in violation of the twenty-eighth section of an act entitled an act to authorize the business of banking, passed April 18, 1838," is hereby repealed.

§ 2. This act shall take effect immediately.

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\* This section is repealed by chapter 452, laws 1847, see page 45.



## Chapter 226.

AN ACT to enforce the responsibility of stockholders in certain banking corporations and associations, as prescribed by the constitution, and to provide for the prompt payments of demands against such corporations and associations.

[PASSED APRIL 5, 1849.]

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows :*

Liability of  
stockholders for  
debts contracted  
after January  
1860.

§ 1. Whenever default shall be made in the payment of any debt or liability, contracted after the first day of January, one thousand eight hundred and fifty, by any corporation or joint stock association for banking purposes, issuing bank notes or any kind of paper credits to circulate as money, after the first day of January, one thousand eight hundred and fifty, the stockholders of such corporation or association shall be individually responsible, equally and ratably, such responsibility to be enforced as hereafter provided, and in no other manner, for the amount of such debt or liability, with interest, to the extent of their respective shares of stock in any such corporation or association as hereinafter provided.

The term stockholder to whom  
to apply.

§ 2. The term "stockholder," as used in this act, shall apply not only to such persons as appear by the books of the corporation or association to be such, but also to every equitable owner of stock, although the same may appear on such books in the name of another person ; and also to every person who shall have advanced the instalments or purchase money of any stock in the name of any person under twenty-one years of age, and while such person remains a minor, to the extent of such advance ; and also to every guardian or other trustee who shall voluntarily

invest any trust funds in such stock ; and no trust funds in the hands of such guardian or trustee shall be in any way liable under the provisions of this act, by reason of any such investment, nor shall the person for whose benefit any such investment may be made, be responsible in respect to such stock, until thirty days after the time when such persons, respectively, become competent and able to control and dispose of the same : but the guardian or other trustee making such investment as aforesaid, shall continue responsible as a stockholder until such responsibility devolves upon the person beneficially interested therein ; and in respect to stock held by a guardian or other trustee, under a transfer of the same by a third person, or under positive directions by a third person for such investment, the person making such transfer or giving such directions, and his executors and administrators, shall, for the purposes of this act, be deemed a stockholder, and the estate of such person, if he be deceased, shall be responsible for the debts and liabilities chargeable on such stock according to the provisions of this act.

§ 3. The persons who shall be stockholders of any corporation or association described in the first section of this act, at the time of contracting any debt or liability by such corporation or association, shall be responsible therefor, as declared in the said first section, but shall be exonerated from such responsibility in respect to any stock which shall have been transferred, previous to any default in the payment of such debt or liability, on the books of such corporation or association, to any resident of this state, of full age, in good faith and without any intent to evade such responsibility; and every assignee of any stock so transferred previous to such default, shall be responsible for debts and liabilities to the extent of such stock, in the same manner as if he had been the owner at the time of contracting such debt or liability, with the same exception in his favor, in respect to any stock transferred by him as herein provided ; and the same rule of responsibility shall apply to each subsequent assignee.

Liability of  
stockholders de-  
scribed in the  
first section.

Names of stockholders and their residences to be entered in a book.

§ 4. A book shall be provided and kept by every corporation or association described in the first section of this act, in which shall be entered the names and residences of the stockholders in such corporation or association on the first day of January, one thousand eight hundred and fifty, and the names and residences of the original stockholders of every corporation or association organized after the day last mentioned, so far as the same are known to the officers of the bank, the number of shares held by each stockholder, every registered transfer of stock upon the books of the bank, after the said last mentioned day, the names of the assignor and assignee, with their residences and the number of shares transferred. The said book shall be at all times during the usual hours of transacting business, open to public inspection. A neglect to provide and keep such book ready for examination as herein provided, shall subject the corporation or association, whose duty it is to provide and keep the same, to a penalty of one hundred dollars for every day's neglect. And a refusal by any officer of such corporation or association to exhibit such book to any person demanding the inspection thereof, as herein provided, shall subject such officer to a penalty of fifty dollars. The said penalties may be sued for and recovered with costs by any person who will prosecute for the same; the one moiety thereof to be paid to such person, and the other moiety to be paid into the treasury of this state. In all proceedings under the provisions of this act, the said book shall be presumptive evidence of the truth of the contents thereof; but such presumption may be repelled by evidence by any party or person interested in repelling the same.

Penalty for neglect.

After twenty days plaintiff may be entitled to enter an order or rule for judgment.

§ 5. After the expiration of twenty days from the service of any summons or complaint or declaration, or proceeding for the recovery of any demand against any corporation or association described in the first section of this act, upon any debt or liability exceeding one hundred dollars, contracted after the first day of January next, in which the precise sum demanded shall be stated, the plaintiff shall

be entitled to enter an order or rule for judgment, upon filing such complaint or other proceeding with due proof of personal service thereof, upon any officer of such corporation or association, and judgment shall be rendered thereon for such demand, with interest and costs, whether an answer to such complaint or other proceeding has been served or not, unless an order shall have been filed in the office of the clerk where such judgment might be entered, granted by a justice of the supreme court or county judge, that the entry of such judgment be stayed until the issue joined or to be joined by the parties be disposed of. But no such order shall be granted without proof by affidavit to the satisfaction of such judge that the defendant in such suit has a good defence on the merits to such demand, or some part thereof, arising upon facts set forth in such affidavits.

§ 6. Upon the return of an execution against the property of any corporation or association described in the first section of this act unsatisfied in whole or in part, or upon proof satisfactory to any justice of the supreme court, that any such execution although not returned, cannot be satisfied out of any property of the defendant, he shall at once make an order declaring the insolvency of such corporation or association.

Corporation  
when to be de-  
clared dissolved.

§ 7. Any creditor of any such corporation or association having a demand exceeding one hundred dollars arising upon a debt or liability contracted after the first day of January next, the payment of which shall have been refused by such corporation or association, may at any time after ten days from the time of such refusal, apply to a justice of the supreme court for an order declaring such corporation or association insolvent and for an injunction as hereinafter provided. If in the opinion of such judge, upon the facts presented, it be expedient in order to prevent fraud or injustice, he may grant an order for a temporary injunction, restraining such corporation or association, and its officers, from paying out or in any way transferring or delivering to any person any money or assets of such cor-

Application  
when to be made  
for such dissolu-  
tion.

poration or association, or incurring any debt or obligation, until such order be vacated or modified.

Duty of judge on hearing of parties.

§ 8. Upon a hearing of the parties on such short notice as the judge shall appoint, he shall determine whether such corporation or association be clearly solvent or otherwise, and may require the officers thereof to exhibit any and all of its books, papers, accounts, assets and effects, and to be examined on oath touching the same before him, or a referee to be appointed by him. If he determine that such corporation or association is clearly solvent, he shall notwithstanding continue the order for a temporary injunction if one has been granted, until the demand of the applicant be fully paid with his costs on such application; unless it shall have appeared by affidavit or otherwise that such corporation or association have a good defence on the merits to such demand.

When to make an order to restrain.

§ 9. If the judge determine that such corporation or association is not clearly solvent, he shall make an order declaring the same insolvent, and shall also by order restrain such corporation or association and its officers from exercising any of its corporate rights or any rights or privileges granted to it by law, and from collecting or receiving any debts or demands, and from paying out or in any way, transferring or delivering to any person any of its property, money or effects, until such order be vacated; and he shall immediately appoint a receiver of the property of such corporation or association.

One or more stockholders may apply for an order to declare corporation insolvent.

§ 10. Any one or more stockholders of any such corporation or association owning stock to the amount of one-tenth part of the capital thereof paid in, may at any time, in like manner apply to any justice of the supreme court for an order declaring such corporation or association insolvent, or in eminent danger of insolvency. And if on the facts verified by affidavit presented, such justice shall deem it necessary or expedient in order to prevent fraud, undue preference or injustice to creditors, he may grant an order in the nature of a temporary injunction, as specified in the seventh section of this act; upon a hearing of the parties

as soon as may be practicable he may require the exhibition to him, or to a referee to be appointed by him of all the books, papers, accounts, assets and effects of such corporation or association; and an examination of the officers, servants and agents thereof under oath; and if he determine that such corporation or association is not clearly solvent, or that it is in eminent danger of insolvency, he shall make an order declaring such determination, and shall by order restrain the said corporation or association and its officers, in the same manner as provided in the ninth section of this act, and shall also appoint a receiver of the property of such corporation or association.

§ 11. Every receiver appointed according to this act, after giving security, shall take into his possession all the property, effects, books, papers, accounts and demands of such corporation or association, including the securities, if any, which may have been deposited with the comptroller, belonging to such corporation or association. He shall immediately give notice, by publication in such newspapers as the comptroller or any justice of the supreme court shall direct, requiring the creditors of such corporation or association to exhibit and establish their demands before him within thirty days from the time of his appointment. Such receiver shall possess all the powers of receivers of corporations under the third article of title four, of chapter eight, and part third of the Revised Statutes in respect to the settlement of all demands exhibited to them, and in all other respects except as herein otherwise provided; and all such powers now conferred by law on trustees of insolvent debtors as may be applicable, and shall be subject to all the duties and obligations by law imposed on receivers of corporations except as herein modified.

§ 12. Under the direction of the comptroller, all securities deposited with him belonging to such corporation or association, shall be converted into cash by the receiver, with the least possible delay, and the receiver shall also convert into cash the effects and demands of such corporation or association, and for that purpose may sell at auction any of the

Power and duty  
of receivers.

Securities when  
to be converted  
into cash.

Dividends to be made.

said demands which any justice of the supreme court shall authorize to be sold ; and within ninety days from the time of his appointment, unless such time be enlarged by a justice of the supreme court, which may be done for a period not exceeding ninety days, such receiver shall declare a dividend of the cash in his hands among the creditors of such corporation or association.

Expenses to be deducted before making dividend.

§ 13. Before making such dividend, the receiver shall deduct and retain the sums necessary to defray the expenses of the proceedings, and all sums which he may have paid in order to exonerate any property of such corporation or association from any pledge or specific lien or levy, under execution or attachment. He shall then apply the money in his hands to the payment of the bills or notes held by bill holders of such corporation or association, who shall have presented the same in just and equal proportions. If any surplus remain, he shall divide and pay the same to and among the creditors of such corporation or association having demands founded on any debt or liability contracted after the first day of January, one thousand eight hundred and fifty, whose demands shall have been ascertained, in proportion to their respective demands; and if any further surplus remain, he shall divide and pay the same to and among all other creditors of the said corporation or association whose demands shall have been ascertained, in proportion to their demands respectively. Such payments to creditors shall be made in the order prescribed by law, in respect to the duties of receivers of corporations.

Report to be made in relation to unsatisfied debts.

§ 14. If there shall remain unsatisfied any debts or liabilities of such corporation or association, contracted after the first day of January, one thousand eight hundred and fifty, the receiver shall within thirty days after the declaration of the said first dividend, and without waiting for the actual payment of the sums divided, render to a justice of the supreme court residing in the district where the business of such corporation or association was conducted, a particular account of the said debts and liabilities so remaining

unsatisfied, and a preliminary account of all his proceedings, under oath, in which shall be set forth the amount of cash realized by him, the expenses and allowances claimed by him, all payments that he may have made, the amount on hand to be divided, and the dividends declared by him.

§ 15. The receiver shall at the same time report and submit to such justice a true and accurate list and statement of the persons who, since the first day of January, one thousand eight hundred and fifty, were stockholders of such corporation or association, the nominal amount of stock held by each, and the residence of each stockholder, so far as the same can be ascertained. The said list and statement shall be made up from the stock books, ledger and list of stockholders kept by such corporation or association, and shall show when each stockholder acquired and transferred the stock standing in his name.

§ 16. The said justice shall thereupon refer the said report and list of stockholders to a referee, to be appointed by him, with directions, after giving notice to all persons concerned, to apportion the debts and liabilities of such corporation or association contracted after the first day of January, one thousand eight hundred and fifty, and remaining unsatisfied among the said stockholders, ratably in proportion to their stock, according to the principles in this act declared, and to report his proceedings to such justice, or some other justice of the supreme court in the same district.

§ 17. The said referee shall cause notice of his appointment, and the time and place of hearing on the matters so referred to him, to be given to each stockholder whose name appears on the said list at least ten days before such time, which notice shall be served on such of the said stockholders as may then reside in the county where the principal office or place for conducting the business of such corporation or association was situated, either personally or by leaving a copy thereof at the residence of such stockholder, with some person of suitable age, and such notice may be served upon all other stockholders, by publishing the same in one

List of stockholders to be reported.

Report and list to be referred to referee.

Hearing when to be had before the referee.



advertisement, containing the names of all such last mentioned stockholders, for at least three weeks, in such newspapers as any justice of the supreme court may direct, and the same shall always be published in the paper designated by law for the publication of legal notices, and in a paper if there be one printed in the county where the chief office for conducting the business of such corporation or association was located.

**Allegations and  
proofs of all par-  
ties to be heard.**

§ 18. On such hearing the said referee shall hear the allegations and proofs of all parties and persons interested in the matter referred, and particularly shall ascertain the persons who are chargeable as stockholders for the debts and liabilities contracted as aforesaid, and the amount chargeable to each according to the rules and principles declared in this act. At the first special term of the supreme court held in the county in which such receiver resides, or in an adjoining county, after the expiration of six weeks from the time of his appointment, such referee shall report to the justice holding such term, the apportionment of the debts and liabilities among the stockholders made by him in detail, with the proofs taken by him on such hearing. If, in the opinion of such justice, further time is requisite to enable the said referee to complete the apportionment directed, or to take further proof in reference to the same, he may grant such further time not exceeding ninety days.

**Apportionment  
when to be re-  
ported to su-  
preme court.**

§ 19. On the final completion of such apportionment, the same shall be reported at a special term of the supreme court, as hereinbefore directed, and on the coming in of any such report, the justice holding such term shall proceed to examine the same, and hear the allegations of the parties and persons interested, and may modify or amend the same, or may refer the same back to the same or another referee for further proof or examination, or may confirm the same. If there be a further reference, notice of hearing thereon may be given by a general notice published in the same newspapers in which the first notice appeared for

two weeks, and a report shall be made thereon within the time to be specified in the order of reference.

§ 20. When the report of a referee, made according to the proceeding sections of this act, shall have been confirmed by a justice of the supreme court at any special term thereof, after being modified or amended by him, the same, together with the order of confirmation, shall be filed in the office of the clerk of such county as shall be directed by such justice; and unless an appeal be allowed and entered therefrom as hereinafter provided, the said order of confirmation shall be final as a judgment against each stockholder for the amount found chargeable against him; and one or more executions thereupon may be issued against any one or more of the stockholders named in such report or order, for the sum or sums chargeable against him or them, in the same manner and with the like effect as upon a judgment in the supreme court, at the instance of the receiver of such corporation or association, and the money collected on such executions shall be paid to and received by such receiver.

Report when to  
be filed in clerk's  
office.

§ 21. The money so collected, after deducting all expenses of proceedings, shall be without delay divided, distributed and paid over to the creditors of such corporation or association, in the same manner as hereinbefore provided, in relation to the first dividend, by the said receiver.

Money to be di-  
vided.

§ 22. The justice to whom any report by a receiver or by a referee, shall be made as herein provided, shall ascertain and allow the necessary expenses attending the execution of their duties, including the hire of such and so many clerks and such professional assistance as may appear to have been useful to expedite the business committed to them, and shall allow to them such reasonable compensation for their services, not exceeding the rate of five dollars for each day actually employed, as he shall deem proper, which allowances and expenses shall be deducted and defrayed out of the cash in the hands of the receiver before making dividends thereof.

Necessary ex-  
penses to be al-  
lowed.

Dividends and  
apportionments  
not to be delayed  
beyond one year.

§ 23. Neither the dividends herein directed to be made, nor the apportionment of the debts of such corporation or association among the stockholders thereof, shall be delayed or suspended by reason of the pendency of any litigation or controversy, for the recovery of any demand by or against such corporation or association, unless the same shall be expressly directed by a justice of the supreme court, residing in the district where the business of such corporation or association was conducted; and such delay shall in no case exceed one year, and if at the time of declaring any dividend, there shall be any prosecution pending in which any demand against such corporation or association may be established, the receiver may retain in his hands the proportion which would belong to such demand and the necessary costs and expenses of the suit or proceeding, to be applied according to the event of such prosecution, or to be distributed in some future dividend to creditors or among the stockholders.

After paying  
debts, remaining  
assets how dis-  
posed of.

§ 24. If after paying and discharging the debts and liabilities of such corporation or association as herein provided, and defraying all the expenses of the proceedings, there shall remain or come to the hands of the receiver, any other assets or effects of such corporation or association, the same shall be converted into cash as hereinbefore directed, and shall be paid to the stockholders upon whom any such debts or liabilities were apportioned in just and equal proportion to the sum contributed and paid by them.

Appeal not to  
suspend or de-  
lay execution  
pursuant to cer-  
tain sections.

§ 25. No appeal from any determination or order of a justice of the supreme court, made pursuant to the fifth, sixth, seventh, eighth and ninth sections of this act, shall suspend or delay the execution of such order or the effect of such determination, unless shall be filed with the notice of the appeal to the clerk of the court, a certificate of a justice of the supreme court, to the effect that there is probable error in such order or determination, nor unless security be given satisfactory to such justice for the payment of the demand upon which the proceedings in those sections may be founded, whenever judgment shall be

rendered therefor, with interest at the rate of ten per cent and costs.

§ 26. No appeal from any order or determination made pursuant to the tenth section of this act, shall suspend or delay the execution of such order or the effect of such determination, unless there be filed, together with the notice of appeal to the clerk of the court, a certificate in all respects corresponding with that required in the last preceding section, nor unless security be given satisfactory to the justice granting such certificate to indemnify the justice granting such certificate to indemnify the stockholders upon whose application such order or determination was made, against all damages, costs, expenses and losses by reason of any debt or liability of such corporation or association created after the first day of January, one thousand eight hundred and fifty.

§ 27. No appeal can be made from any order of any justice of the supreme court under this act referring any matter to a referee.

§ 28. An appeal from the determination of a justice of the supreme court confirming the apportionment of the debts and liabilities of a corporation or association among the stockholders thereof, as provided by this act, may be taken by the receiver of such corporation or association, or by any one or more of the stockholders affected by such apportionment, in the same manner and with the like security as provided by law in the case of appeals from a special term of the supreme court to a general term, or from the judgment of such general term, to the court of appeals in the same manner and with the like security and effect as appeals to the same court from any other like judgment, except that it shall not be necessary for a receiver so applying\* to give any security for costs or otherwise.

§ 29. If any such determination or judgment shall be reversed or modified so that a new apportionment of such debts and liabilities shall become necessary, the court in

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\* So in the original.

which such reversal or modification shall be made, shall direct a new apportionment, and the matter shall be remitted to the proper justice of the supreme court for that purpose; and the same proceedings shall be had thereon to complete such new apportionment as are herein provided in relation to the original apportionment.

Securities where  
to be filed.

§ 30. Every security taken under the provisions of this act, shall be filed with such clerk of the supreme court as the justice taking the same shall direct; and the same may be enforced by suit in the name and for the benefit of any person for whose benefit or indemnity the same was taken.

Right of creditors who neglect  
to present their  
demands.

§ 31. Any creditor of any such corporation or association who shall have neglected to present his demand to the receiver before the first or subsequent dividend, and who shall present the same before the second or any other subsequent dividend, shall receive the sum he would have been entitled to on any former dividend, before any distribution be made to other creditors.

Certain issues of  
fact or law joined  
in suit to have  
preference.

§ 32. Every issue of fact or of law joined in any suit against any corporation or association described in the first section of this act, upon any debt or liability contracted after the first day of January, one thousand eight hundred and fifty, or against any receiver of such corporation or association, or by any such receiver, under the provisions of this act, shall have preference at the court at which it shall be noticed for trial or argument, to all other causes; and every case made, special verdict rendered, bill of exceptions and demurrer to evidence taken on such trial, and every issue of law joined on the pleadings in any such suit, and every appeal from any order or determination, judgment or decree, made or rendered under the provisions of this act, and every special motion relating to any proceedings had under this act, shall have a preference in the hearing and argument thereof in any court where the same may be pending.

### Chapter 313.

AN ACT amendatory of the act entitled "An act to authorize the business of Banking," passed April 18, 1838, and the acts amending the same.

[PASSED APRIL 10, 1849.]

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows :*

§ 1. The stocks which banking associations or individual bankers, now or hereafter to be organized under the provisions of the act "To authorize the business of banking," passed April 18, 1838, and the amendments thereto, shall hereafter deposit with the comptroller, shall be New-York State Stocks, in all cases to be or to be made to be equal to stock producing six per cent per annum, or at least one half the amount so deposited shall be in the stocks of the State of New-York, as before mentioned, and not exceeding one half in stocks of the United States, in all cases to be or to be made to be equal to a stock producing an interest of six per cent per annum ; and it shall not be lawful for the comptroller to take such stocks at a rate above their par value or above their current market value.

Stocks to be deposited with comptroller.

§ 2. The shareholders or a majority of them in amount, who shall be owners of any incorporated bank continuing the business of banking until the expiration of their charter, and who shall have associated themselves for the purpose of banking, under the provisions of the "Act to authorize the business of banking," passed April 18, 1838, and the amendments thereto, shall be entitled to receive from the comptroller, who is hereby authorized to issue to the association so formed, circulating notes in amounts of not less than ten thousand dollars, upon the deposit of securities of the kind described, required by the provisions

Comptroller when to issue circulating notes to associations.

of the above mentioned act and the amendments thereto, to an amount equal to the circulating notes so issued. But if such banking association so formed shall not have deposited with the comptroller during the three years next following the date of their articles of association, an amount equal to that now required by law of banking associations as security for circulating notes previous to commencing the business of banking, the comptroller is hereby empowered to retain the interest accruing upon securities so deposited until such association has complied with the provisions of the act above recited in relation to the amount of security to be deposited in the office of the comptroller.

Associations  
how formed after  
expiration of  
charter.

§ 3. If the shareholders or a majority of them in amount, of any incorporated bank, within one year of the expiration of its charter, shall file with the president thereof a notice in writing that they intend to avail themselves of the provisions of the second section of this act to associate for the purpose of banking, it shall be lawful for the directors of said bank to purchase and hold such stock and other securities as the comptroller is or may be authorized to receive for circulating notes under the provisions of the act to authorize the business of banking, passed April 18, 1838, and the various acts amending the same, to such an amount as they shall deem for the interest of the shareholders thereof.

Provision rela-  
tive to real  
estate.

§ 4. An association heretofore or hereafter formed to take the place of an incorporated bank whose charter has expired or is about expiring, may, where all the stockholders of such incorporated bank have assented to its organization under the act to authorize the business of banking, take and hold in addition to such real estate as is prescribed by the twenty-fourth section of the act to authorize the business of banking, such other real estate as at the time of the transfer of the property of the incorporated bank, having been received by it in payment of debts previously contracted to said bank or purchased by it under judgments or decrees in chancery in favor of said incorporated bank, according to law.

## EXTRACT

FROM THE

### Constitution of the State of New-York.

ADOPTED 1846.

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#### ARTICLE VIII.

§ 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be obtained under general laws. All general laws and special acts passed pursuant to this section, may be altered from time to time, or repealed.

§ 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

§ 3. The term corporations, as used in this article, shall be construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons.

§ 4. The Legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws.

§ 5. The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments by any person, association or corporation, issuing bank notes of any description.



